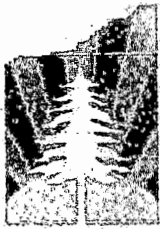


## EXHIBIT 08



# JACKSON COUNTY

Oregon

**District Attorney**  
**Criminal**

**Beth Heckert**  
*District Attorney*

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Medford, OR 97501  
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TTY: (541) 774-8186  
www.jacksoncounty.org

July 26, 2021

Presiding Judge Mejia  
Jackson County Circuit Court  
100 S. Oakdale  
Medford, OR 97501

RE: ORS 14.260(1) disqualification notice

Dear Judge Mejia:

I am writing to provide you with notice that beginning immediately the Jackson County District Attorney's Office will move to disqualify Judge David Orr on all matters in which my office is a party. As you are aware, ORS 14.260(1) provides:

Any party to or any attorney appearing in any cause, matter or proceeding in a circuit court may establish the belief described in ORS 14.250 by motion supported by affidavit that the party or attorney believes that the party or attorney cannot have a fair and impartial trial or hearing before the judge, and that it is made in good faith and not for the purpose of delay. No specific grounds for the belief need be alleged. The motion shall be allowed unless the judge moved against, or the presiding judge for the judicial district, challenges the good faith of the affiant and sets forth the basis of the challenge. In the event of a challenge, a hearing shall be held before a disinterested judge. The burden of proof is on the challenging judge to establish that the motion was made in bad faith or for the purpose of delay.

As District Attorney I take this position with a great deal of regret. I have never filed an affidavit on a judge in my 33 years in the District Attorney's Office. Unfortunately, I do not believe that crime victims, law enforcement officers, my attorneys or even the accused can receive a fair hearing or impartial trial before Judge Orr. I have these concerns for several reasons, including but not limited to the following:

- State v. Zhangang Frisbee 19CR71354 this case had a motion to compel discovery on an informant. The motion was heard on January 29, 2021. The Court believed the Medford Police Department should change their policy when reviewing information to determine

ORS 14.260(1) disqualification notice  
 July 12, 2021  
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if it is exculpatory. Judge Orr stated "I'm going to continue the trial on the Court's own motion. And what I want to do is continue it long enough to see if the State elects to come back and inform the Court about a change in the Medford operations policy. And if that has occurred, it would seem to me that it's appropriate then for that to be something that would weigh heavily in the State's favor when deciding what type of sanction I ought to impose." The City then submitted a memo detailing how the Lexipol policy was lawful and used nationwide.

- In State v. Martin 20CR14810 a sex abuse trial occurred on June 23, 2021. After a multi-day trial, Judge Orr gave the defense sir rebuttal, even though the defense had not made any objection to Ms. Terry Smith Norton's final closing. Judge Orr also lectured Ms. Smith -Norton when she stated "Your witness" after completing direct exam of a State's witness. Judge Orr was also informed by the Jury that they had reached a verdict on the three Tampering charges but had not reached a verdict on the Sex Abuse charges. Judge Orr ultimately declared a Mistrial and did not receive the verdicts on the Tampering charge. He stated that he believed he could accept the verdict but he didn't feel comfortable accepting the verdict.
- In State v. Sowells 19CR02922 a motion for in-camera review occurred on April 15, 2021. Judge Orr released the records even though he found they did not meet the standard of being exculpatory, in violation of ORS 181A.830. The records were released to the defense prior to the start of the hearing on April 18, 2021 by Court staff. Due to his release of those records, the State had no confidence he would not let the records be used somehow during the trial, so the State felt that resolving the case, at a considerable reduction of the original offer, was our only choice.
- In State v. Zamora 18CR14737 a trial was held on November 24, 2020. During the trial, the Judge would not ask or allow the State to respond to a majority of the objections. At the conclusion of the trial Judge Orr said he made poor decisions for the State, he sustained objections by the defense, even though the defense did not state an accurate basis for objections.
- In State v. Stanford, Michael & Melody Judge Orr severed the co-defendants on 18CR49190 over the States objection and the Defendant's objection. The State provide Judge Orr with a case stating a fear of an issue is not enough to sever the cases. In this case the concern by Judge Orr was that Mr. Stanford would act as Mrs. Stanford's attorney. In January 2021 Judge Mejia un-severed the two cases. The case went to trial as co-defendants in May 2021.
- In many other cases the prosecutors have been treated with disrespect by Judge Orr.

As District Attorney, I take an oath to ensure equitable and fair application of the law to all individuals. It is our policy to defend public safety, ensure offenders are held accountable, seek justice for victims of crimes, and to facilitate the efficient and equitable resolution of matters. For all of these reasons stated

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above and many more, the State does not believe we can have a fair and impartial trial before Judge David Orr.

Sincerely,

Beth Heckert  
District Attorney

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JACKSON

IN THE MATTER OF

Jackson County District Attorney  
Appearances before Judge David Orr

21-13  
MOTION TO DISQUALIFY

COMES NOW, the State, by and through Beth Heckert, District Attorney for

Jackson County, and based upon the Affidavit herein and moves the Court for an Order

Disqualifying Judge David Orr to hear the Jackson County District Attorney appearances

for the reason the State believes it cannot obtain a fair and impartial trial or hearing

before such Judge. This motion is pursuant to ORS 14.250-14.270 and is made in good

faith and not for the purpose of delay.

DATED at Medford, Oregon, July 28, 2021.



Beth Heckert, OSB#872472  
District Attorney

JACKSON COUNTY DISTRICT ATTORNEY  
Criminal Division  
• 815 West 10th St.  
Medford, OR 97501 • (541) 774-8181

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JACKSON

IN THE MATTER OF )

Jackson County District Attorney )  
Appearances before Judge David Orr )

21-13  
AFFIDAVIT

Court No.

STATE OF OREGON )  
County of Jackson ) ss

I, Beth Heckert, Jackson County District Attorney, after being duly sworn upon oath, do hereby depose and say:

I am the District Attorney for Jackson County.

It is our policy to defend public safety, ensure offenders are held accountable, seek justice for victims of crime, and to facilitate the efficient and equitable resolution of matters. The State does not believe Judge David Orr can be fair and impartial to the State, nor follow the law.

Such motion to disqualify Judge David Orr is not for purposes of delay and is made in good faith.

DATED at Medford, Oregon, July 27, 2021.

*Beth Heckert*  
Beth Heckert, OSB#872472  
District Attorney

Subscribed and sworn to before me this 27<sup>th</sup> day of July, 2021.



*Christina A. Walruff*  
Notary Public

My commission expires: 11-02-2024

JACKSON COUNTY DISTRICT ATTORNEY  
Criminal Division  
• 815 West 10th St.  
Medford, OR 97501 • (541) 774-8181

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JACKSON

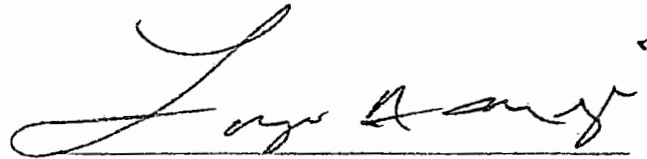
IN THE MATTER OF

Jackson County District Attorney  
Appearances before Judge David Orr

21-13  
) ORDER ON MOTION TO  
) DISQUALIFY  
)  
)  
)  
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)

Based upon the Motion to Disqualify Judge David Orr filed by the District Attorney,  
it is hereby:

Allowed X Denied \_\_\_\_\_



7-28-2021

Lorenzo A. Mejia  
Circuit Court Judge

JACKSON COUNTY DISTRICT ATTORNEY  
Criminal Division • 815 West 10th St.  
Medford, OR 97501 • (541) 774-8181

Order



Verified Correct Copy of Original 4/17/2024.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

IN THE MATTER OF

Jackson County District Attorney  
Appearances before Judge David Orr


PRESIDING JUDGE ORDER

NO. 24-05

PJO 21-13 disqualifying Judge Orr from presiding over criminal matters is rescinded. Order No. 24-05 is based on SB 807 (2023), effective January 1, 2024, which changed the recusal procedure in criminal and juvenile matters.

SO ORDERED.

DATED April 17, 2024  
Nunc Pro Tunc April 16, 2024

  
Benjamin M. Bloom, Presiding Judge